



Appeal Decision

Site visit made on 13 March 2022

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2022

Appeal Ref: APP/D1590/W/21/3277380

2c Smith Street, Shoeburyness, Southend-On-Sea SS3 9AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Douglas Lynch & Mrs Sophie Smith (Top Spec Group Ltd) against the decision of Southend-on-sea Borough Council.
 - The application Ref 20/01155/FUL, dated 20 July 2020, was refused by notice dated 30 December 2020.
 - The development proposed is to demolish the existing building and to erect a new two-storey dwelling-house and to layout amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published a revised *National Planning Policy Framework* (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
3. For clarity, I have used the description of development given on the Council's decision notice and the appellant's appeal form.

Background and Main Issues

4. Therefore, the main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Shoebury Garrison Conservation Area (the CA),
 - the effect of the proposal on the living conditions of the neighbouring occupiers,
 - highway safety, and;
 - building regulations

Reasons

Conservation Area

5. The appeal site is located within the CA and has a derelict mono-pitched structure that is known as No 2c Smith Street which faces onto the highway over a crossover. No 2c appears to have been previously used as a commercial premises.

6. The built environment in the nearby surrounding area is varied in age and appearance along Smith Street, but other than a small section in Smith Street the built form in the CA also includes the adjoining 'High Street'. The special character and significance of the CA in this location is typified by older style tiled and pitched roofed, two-storey terrace houses with chimney stacks, which are alternated by either stock brick, painted brick or pebble-dash finishes. In addition, the dwellings have ground-floor bay windows with a slight articulation to the first-floor and decorative banding at eaves levels. The front elevations have arched and set-back porches, tall sliding sash windows with a single glazing bar, as well as arched heads and stone lintels. Notwithstanding some minor alterations to individual properties over the course of time, examples of these properties include, but are not limited to, the dwellings seen at Nos 9 and 11 High Street.
7. The proposal is to demolish No 2c and to construct a two-storey dwelling house that would include a garage-type space to one side. The proposal would have timber sash windows with a course of soldier bricks above, rendered elevations and a slate tiled roof.
8. The appellant has brought to my attention a property on the other side of Smith Street that is a rendered, mono-pitched, two-storey dwelling which appears to be a more recent addition to the host property. However, I have limited details of that scheme before me. Moreover, I cannot be certain if it was considered under the same development plan as the proposal before me or not. Therefore, I have considered the proposed development on its own planning merits.
9. I acknowledge that the appellant has made a number of changes to a previous proposal for the appeal site, which include a reduced number of bedrooms, an off-road garage-type parking space, cycle storage and a hipped roof. However, while the appellant contends that the proposal would improve the CA, the fact remains that the proposed residential development would be incongruous with the existing spatial arrangement and the character and appearance of the dwellings found along 'High Street'. Indeed, while I acknowledge that the former commercial premises faced directly onto the highway, the characterful terraced residential dwellings on 'High Street' include a landscaped buffer to the front, whereas the proposal does not.
10. Moreover, the simple 'stand-alone' proposal does not include chimney stacks, tall windows, or traditional style elevational details, rather a contemporary style metal roller parking space door that is set in a mostly plain elevation. As such, the proposal would starkly contrast with the positioning, scale, and attractive detailing of the older terraced properties on 'High Street'.
11. Overall, I find that the proposal would fail to preserve or enhance the character and appearance of the CA and be at odds with the prevailing character of the location.
12. For that reason, in respect of the CA, the proposal is contrary to Policies KP2 and CP4 of the SCS and Policies DM1, DM3 and DM5 of the SDMD as supported by the DTG, which aims include that development proposals will be expected to safeguard and enhance the historic environment, including Conservation Areas, and the relevant sections of Chapters 12 and 16 of the Framework.

Heritage balance

13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is supported by the national *Planning Policy Guidance* (PPG), requires the decision maker to have special attention to the desirability of preserving or enhancing the character or appearance of designated conservation areas within which development may occur. In addition, Paragraph 199 of the Framework states that great weight should be given to an asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial.
14. I have found that the proposed development would fail to preserve or enhance the character and appearance of the CA. In accordance with Paragraph 202 of the Framework, I am required to assess the extent of such harm. I find that the harm would be 'less than substantial'. This is to be balanced against the public benefits arising from the proposal and I will return to this later in my decision.

Living conditions

15. At my site visit I noticed that the appeal building is directly adjacent to the rear of Nos 9A & 9B and Nos 11 & 11A High Street. Indeed, notwithstanding the hipped-roof design, the immediate outlook from the neighbouring dwellings would be onto the bulk and mass of the relatively high and mostly blank elevations of the two-storey proposal. Consequently, the immediacy and scale of the new development would create a sense of enclosure and harm the outlook of the existing and any future occupiers.
16. I conclude therefore, that the proposal would harm the living conditions of the neighbouring occupiers.
17. It follows then that the proposal, in respect of the living conditions of neighbouring occupiers, is contrary to Policies KP2 and CP4 of the Southend on Sea Core Strategy, 2007 (SCS), and Policy DM1 of the Southend on Sea Borough Council Development Management Document, 2015 (SDMD), as supported by the Southend on Sea Design and Townscape Guide, 2009 (DTG), which say amongst other things that high quality development by definition should provide a positive living environment for its occupiers whilst not having an adverse impact on the amenity of neighbours.
18. For similar reasons, the proposal does not meet the aims of Paragraph 130 (f) of the Framework which is clear that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Highway safety

19. I noticed at my site visit that Smith Street is a well-used road where parking opportunities appear to be limited by ongoing ad-hoc demand and to resident permit holders. Therefore, while less than ideal in comparison to a full-sized garage, the roller-shuttered parking space is a practical solution for off-street parking. However, notwithstanding the existing crossover, it is likely that the occupiers of the dwelling would at times reverse onto the highway when leaving the site.

20. As such, vehicles would come into conflict with the steady flow of vehicles on Smith Street. Therefore, in the planning judgement, I conclude that the proposal would harm highway safety.
21. Accordingly, in respect of highway safety, the proposal is contrary to Policy CP3 of the SCS and Policies DM3 and DM15 of the SDMD, which require that developments will improve road safety, and the Framework when read as a whole.

Building regulations

22. The Council contend that insufficient information has been submitted to demonstrate that the proposed development would comply with Building Regulations 2010 Part M4 (2), which relates to accessible and adaptable dwellings. Nonetheless, the appellant contends that the proposal would be attractive to a range of households. However, there is minimal evidence to persuade me that the proposal would be accessible to those with limited mobility, or that the proposed development would be adaptable to meet the needs of households who, for example, have a life-altering change in circumstances following occupation of the dwelling.
23. As such, in respect of Building Regulations, I conclude that the proposal would be contrary to Policies KP2 and CP4 of the SCS, Policy DM1 of SDMS, as supported by the DMT, which say that development should provide an internal and external layout that takes into account all potential users, and the relevant sections of Paragraph 130 of the Framework.

Planning Balance

24. Having found that the development would result in 'less than substantial harm' to heritage assets, according to various Court decisions, this does not equate to a 'less than substantial planning objection'. The PPG requires that whether a proposal causes 'less than substantial harm', that this will be a judgement for the decisionmaker having regard to the circumstances of the case. These are to be balanced against the public benefits arising from the proposal.
25. The proposal would provide one new dwelling on an existing yet derelict site, and thereby contributing to the Council's Housing Land Supply. Nonetheless, even if Paragraph 11 (d) of the Framework were to be engaged, I attribute the provision of one dwelling in isolation very limited weight.
26. Economic and social benefits would include employment opportunities connected to the construction of the dwelling and the patronage of local services by the new residents. I afford these benefits moderate weight even though the employment opportunities are likely to be short-term. Environmental benefits would include a contemporary-type home in a sustainable location with cycle storage. I attribute this moderate weight.
27. Notwithstanding my findings above, the appellant intends to provide one off-road parking space for the scheme. However, as this forms part of the Council's normal policy requirements I attribute this matter very minimal weight.
28. In accordance with the balancing exercise contained in Paragraph 202 of the Framework, I conclude, even when considered in combination, that the benefits of the proposal do not outweigh the 'less than substantial harm' to the CA.

Conclusions

29. The proposed development would conflict with the adopted development plan, and there are no material considerations indicating a decision otherwise than in accordance with it. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR